

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Collin A. Rose on July 29, 2011.

The application has been amended as follows:

In claim 1, at the end of the claim, insert -- wherein a helix angle of the tooth arrangement of the first and / or second spur gear wheel lies in the range from 65° to 85°--.

Cancel claims 44 and 50.

Election/Restrictions

2. Claim 1 is allowable. The restriction requirement, as set forth in the Office action mailed on January 29, 2010, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 25, 27, and 47-49, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is

Art Unit: 3753

anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

3. Claims 1-3, 16, 18, 23, 25, 27, 32-33, 38-43, 45-49 and 51-52 are allowed.

4. The following is an examiner's statement of reasons for allowance: The primary reason for the allowance of the claims is a drive device having the combination of a first spur gear wheel directly connected to the reduction gear connected to the spindle drive with a second spur gear wheel connected to the motor with one of both of the spur gear wheels having a helix angle of the tooth arrangement between the range of 65-85 degrees with a circulation body having fluid flow therethrough in which the spindle drive, gear unit and motor disposed within the circulation body.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The newly cited references have helix angles on gears.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN BASTIANELLI whose telephone number is (571)272-4921. The examiner can normally be reached on M-Th (8-6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hepperle can be reached on (571) 272-4913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Bastianelli
Primary Examiner
Art Unit 3753

/John Bastianelli/

Application/Control Number: 10/564,586

Page 5

Art Unit: 3753

Primary Examiner, Art Unit 3753